

resulted in his killing Theodore Estes. He said that he knew that there would be no objection by the defense.

Protest to New Move.
Mr. Strode spoke in objection and, citing a great array of authorities, insisted that such a course of procedure was unknown to the law. He urged that the truth or falsity of the story told Judge Loving by his daughter regarding her alleged assault by Theodore Estes had nothing to do with the case at issue; that the question was, "Did Judge Loving believe the story, and did he act in consequence of hearing it?"

The only matter which could be disproved was whether or not Miss Loving did, in fact, tell her father the pitiful story which caused him to kill Estes. The laws of Virginia and of the land were in accord on this point, he asserted. In reply, Mr. Daniel Harmon, for the prosecution, made an impassioned address, and throwing aside all subtlety, stated that the Commonwealth was prepared to prove that the story told by Miss Loving had been concocted to save her father and to reduce the degree of his crime to manslaughter. With voice raised, with gestures earnest and laboring under intense excitement, he made a vigorous attack upon the story of the daughter, the result of the prisoner's daughter by young Estes.

"I am prepared to prove," he exclaimed, "that Miss Loving was not assaulted; was not drugged, and that the story told by her is false. The young lady had drunk too much, and that is all the story."

He insisted that the drive was taken in broad daylight that Miss Loving was not unconscious that she alighted from the buggy upon her return from the drive without assistance and walked up the steps into Mrs. Kidd's house and said he could produce the ladies who undressed her and put her to bed, who would swear that her clothes were not disarranged.

Prosecuting Attorney.
Mr. Walton Moore replied for the defense, and after a thrust at Mr. Harmon, who he described as being "employed by private interests to prosecute Judge Loving," said that his case was an argument, which should have been addressed to the jury, not to the court in discussing a question of law. He added: "The defense has searched every authority on this subject, and has not found a single case which bears out the contention of the prosecution. I defy any lawyer on the other side or any lawyer in the land to produce an authority which will bear Mr. Harmon out in his view of the case."

Mr. Moore called the court's attention to the famous Thaw case, and asserted that the learned District Attorney of New York had not even attempted to introduce testimony to discredit Evelyn Thaw's story told her husband, which caused the death of Stanford White, although, he said, it was a well-known fact that Stanford White was not in the city of New York when the alleged betrayal was said to have occurred.

Judge Barkdale took the matter under advisement, and announced that he would rule upon the question in the morning.

It seems almost certain that the defense will gain its point, and if this is true, the trial will near its end to-morrow, or certainly Saturday, for half a hundred witnesses who are here will not be called, and there will be few others examined except experts on insanity.

An incident of the trial to-day was the marked feeling displayed by the friends of the Estes family and the Loving adherents. When the defense smiled and the other side wore smiles as black as night, and when the prosecution gained a point the smiles were on the faces of the Estes people and gloom reigned in the Loving ranks.

LOVING INSANE SAYS DR. EMMONS

Washington Alienist So-Testifies.
Hot Passage of Words.

Stiffing head ushered in the third day of the Loving murder trial, and hours before the time set for the morning session the people interested gathered under the shade-trees of the courthouse green. The jury entered court at 9 o'clock and took their places in the jury box, looking like figures of Patience on many monuments. For their quieter moments the minds of those clever farmers arose their crops growing over the hot June sun. The counsel for Judge Loving spent many hours last night with Dr. Emmons, his insanity expert, and counsel for the prosecution were not less active in holding conferences. It may be said that the trial has just begun, for all that has been brought out in evidence, despite its sensational character, was known before the trial commenced, and it now remains for the expert to dispose the statements that have been made on the stand by Judge Loving and his daughter.

It is stated that the J. O. Loving, called by the prosecution, who was the undertaker who prepared the body of Estes for burial, is in no way connected with Judge Loving's family. Judge Loving desires that this fact be made public.

An interesting incident of the trial occurred this morning when an aged farmer from Nelson county appeared to take his place by Judge Loving's side. His name is Nash, and he lives on the mountain side, fifteen miles from a railroad. Two nights ago he said he dreamed that Judge Loving needed him, and so arising from his bed he began the long walk to Arlington Station and came on to Houston. It has not been printed that Miss Loving is a highly-educated young woman.

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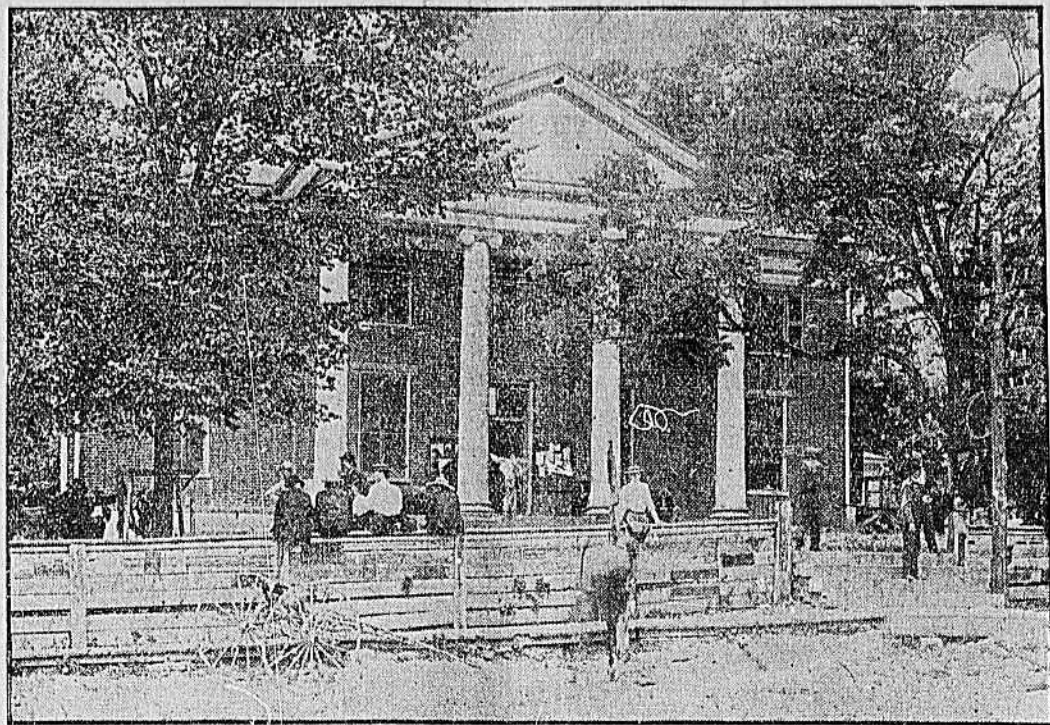
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SCENE AT HALIFAX COURTHOUSE WHERE LOVING TRIAL IS IN PROGRESS



for the past fourteen years a student of brain diseases. When asked how much effect on the brain, witness said that from twenty to fifty per cent. of all persons suffering from brain trouble, came to grief from drink.

Mr. John L. Lee then read to the witness the following long hypothetical question:

Suppose the following case:

A young Virginian of more than ordinary talent and excellent training started the practice of his profession as a lawyer, with prospects of a successful career. He was respected and honored in his community, and rapidly acquired practice. He was, at the age of twenty-seven, elected to represent his county in the General Assembly of the State, and was re-elected in 1887. He was married in the fall of 1885, and two children were born of the marriage, namely, a daughter, in 1887, and a son, in 1888. He was in fine health physically and mentally, when, during his canvass of 1887, he began to manifest a condition which he would later call a habit steadily increased its hold upon him, and for a period of about eight years he drank to great excess, and was about as dissipated as it was possible for a man to be, one of the effects being that at times the man was practically blind for days at a time.

He had frequent, violent and extended attacks of delirium tremens, which sometimes threw him into such a condition that he would lose all knowledge of his surroundings and of the passage of time, and would awake to consciousness without knowing how many days or weeks had been practically lost out of his life. His business disappeared, he became indebted, and was in such financial straits that he went to his father's home to live, and his wife to her father's, his property having been sold under an execution. The physical and mental changes resulting from continued and excessive use of alcohol became very apparent. Those who knew him recognized that he had ceased to be the even tempered, serene and kindly mannered man he had once been, and had become irritable, disagreeable and unreasonable.

To those who had known him in the high promise of his early manhood he seemed a physical wreck, and they feared that his mind was being swiftly impaired. After this long period of dissipation, in a small way, the influence of his wife and friends, and such course of treatment at a Keeley Institute, in October, 1895; and thereupon struggled resolutely against falling again into the habits of dissipation. He resumed the practice of his profession in a small way, and took a small farm at the time, and was after a while elected Judge of the court of his county, filling that office for about six years. In May, 1905 he took charge of a farm as superintendent, and was thereafter mentioned until the homicide hereafter mentioned. From October, 1905, until April 22, 1907, he refrained from the use of intoxicants, except on two occasions—namely, in October, 1905, and in February, 1907. On the first occasion he indulged in a prodigious spree, and had to be taken home, where he was ill in bed for some days, with a doctor in attendance.

On the second occasion after he had ceased taking stimulants he was oppressed by the hallucination that a dog had slipped in the bearings of his brain and said he had never had such an experience before. The brain of the man was seriously affected by his excesses, and those who were intimate with him could perceive that although he was living a temperate life, his mind was not what it had once been. On April 22, 1907, while he was attending to his ordinary duties as superintendent of the farm, which he had taken over in charge, he received certain information from his friends and brother-in-law, in reference to his daughter.

Between him and his daughter there had existed continuously from her earliest babyhood the sweetest and tenderest relations, he worshipping her with all the adoration of a loving father, and feeling in the fullest degree a father's joy and pride in the loveliness and purity of an only daughter. He had done his best to educate her, and she was as dear to him as a daughter could be. The information which he had received was to the effect that a young unmarried man on the evening previous had taken his daughter out to drive in a buggy and had brought her away after dark to the house of a person whom the daughter was visiting at the time, unconscious and helpless from drink, and that she had remained in that condition the greater part of the night, and was still too ill the next morning to come home.

He received this information about 9 o'clock in the morning. To him it was like a bolt of lightning from a clear sky, and he restrained himself with difficulty from taking some immediate action, but was able to determine to do nothing until he could see his daughter and have from her lips the story of what had taken place. At this time he had himself under control, and wishing to keep himself under control, would not go for his daughter, fearing that he might meet the young man and do something rash; and so he sent his wife for her, and she was brought back to his house about 1 o'clock. Shortly after dark he turned her to her daughter into his room, and there asked her to tell him

all. She knelt before him and told him she had gone into the room reluctantly, upon being urged by the young man, and that after driving some distance they turned back and went by the home of the young man, who got out of the buggy and went into his house, where he remained some five or six minutes; that the young man then came back, and they drove on some two miles further in an opposite direction, and at the request of the young man she took a drink of whiskey, which must, as she thought, have had something in it, as it quickly made her so dizzy and sick that she requested him to drive her back to the house where she was staying.

He declined and turned into a mountain road. She soon became unconscious and recollected nothing after becoming unconscious, except that she recollected very vaguely about arriving at the house where she was staying and managing to get upstairs. Then while still on her knees with her arms about her father, and his about her, her father asked her whether the young man had attempted to assault her, and she replied, sobbing: "He forced himself upon me. I tried to resist him and push him off, but could not. I tried to scream, but he put his hand over my mouth, and I suppose no one heard me. I became unconscious and did not regain consciousness until I came to that night in bed at the house where I was staying."

At this he became so white and his face so drawn, and he looked so unnatural that the daughter thought he was going to die and ran out and told her mother she feared she had killed her father. The shock of this disclosure excited the man, and he felt that he could not stay his hand and that no power on earth could restrain him. He ordered his vehicle and drove away with his gun in search of the young man, and after driving about eight miles, came upon him, and when he saw him exclaimed: "You are the young man who took a young lady out driving at night and brings them home drugged, unconscious and ruined," and then shot the young man twice, killing him.

Immediately before the shooting, the appearance of the man was so different from the ordinary that a physician of the same county, who had known him for many years, had difficulty in recognizing him. Immediately after the shooting the man moved round almost as if bewildered, and such were his appearance and manner as to impress the physician that he was mentally irresponsible. Within three minutes from the time of the shooting he was dead, or by this physician to explain his act, he said: "That man took my daughter out and brought her back unconscious and ruined, and her life is ruined, and my life."

He spoke these words in a low voice, tremulously, and with great difficulty of articulation, his face white and rigidly set.

What is your opinion of the mental condition and responsibility of the man at the time of the shooting?

At the conclusion of the reading of the question, Mr. Bouldin objected to the witness answering, and asked that an adjournment be taken until 2 o'clock, in order to give the prosecution time to examine the hypothetical question, two copies of which were handed the prosecution by the defense.

DR. EMMONS DECLARES LOVING WAS INSANE

The jury entered the court-room at 1:55 o'clock, and five minutes later Judge Barkdale opened court. Mr. Corydon Bates, of Richmond, a brother-in-law of Judge Loving, arrived during the afternoon session. Judge Loving sat between his brother, Mayor Loving, and Mr. Sutton.

The loving family gave out a statement to the press regarding the black dresses worn by the ladies of the family. Black is not worn to play upon the sympathies of the jury, but because of the recent death of Mrs. Snead, mother of Mrs. Loving and Miss Snead.

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Snead, and grandmother of Miss Elizabeth Loving.

Mrs. Chalkley, of Richmond, is here with her sister, Mrs. Loving, although she has not yet appeared in the courtroom. Mr. Estes, of Danville, a brother of Theodore Estes, and Mr. John Swanson, occupied seats with the lawyers for the prosecution. There was a delay of ten minutes, occasioned by the absence of Mr. Bouldin and Mr. Harmon, and then the jury was sent out and argument on the hypothetical question asked Dr. Emmons was begun. The jury was sent out of the room. Mr. Bouldin, in addressing the court, said that the hypothetical question asked the witness was not a statement of facts, but was a narrative purely imaginary for the purpose of getting the opinion of the expert on the condition of an imaginary person described in the narrative.

Mr. Bouldin said the prosecution did not agree that the question stated facts in the case. Indeed, he declared that the story was not borne out by the evidence so far adduced. "If I do not want it to go from the bench that these are the facts," exclaimed Mr. Bouldin.

Mr. Moore replied that the court could instruct the jury at the proper time as to the nature of a hypothetical question. Mr. Bouldin urged that the court explain at this time to the jury what a hypothetical question is. Mr. Bouldin asked that the words, "and responsibility," in the closing sentence of the hypothetical question, be stricken out. Counsel for the defense agreed, and struck out the words, and further objections were withdrawn.

Dr. Emmons was then recalled to the stand, and the jury was brought in.

Emmons Believes Loving Drugged.

Dr. Emmons was then asked to answer the question. He replied, deliberately: "My opinion is that he was mentally drugged."

Dr. Emmons then explained to the jury the condition of a man who is addicted to drink. He said that such a person had rushes of blood to the head; that the tissues of the brain were broken down.

"He had a diseased mind, and in my opinion the act committed was the result of the diseased mind," said Dr. Emmons.

Witness explained that there was no strict test to determine a man's sanity or insanity, but persons were judged by their conduct, acts, habits and words.

He said that many insane persons who knew that their acts were wrong, would do the wrong act.

Witness said he examined Judge Loving in his office in Washington ten days ago, and that he felt assured by the test he made that there was a disease of his brain, and he found him with various instruments, and came to the conclusion that he had a pronounced disease of the brain.

Witness here went into a detailed description of the results of his examination. In words he found the brain of the prisoner was one flooded with blood. Witness was then cross-examined by Mr. Bouldin, who said that the witness stated his experience in the Washington asylum, in again and again asked by Mr. Bouldin, who finally said: "I know it is hard for your profession to give information."

"I can give information, but I cannot furnish understanding," replied the witness, sharply.

"I don't think you can give either," snapped Mr. Bouldin.

Mr. Lee objected, and insisted that the witness should be protected.

"Is Judge Loving insane to-day?" asked Mr. Bouldin.

"I don't know," replied the witness. Witness then explained to the jury that the reason he did not know Judge Loving's condition to-day was that he desired only to testify as to what he did know. He said he examined him ten days ago and found him with a diseased brain. He said Judge Loving was not the man he had once been. When asked if he knew that Judge Loving had once been a county judge, he said he testified as to what he did know. He contended that the jury be sent out.

After the jury retired, Mr. Bouldin continued: "We desire to put on the stand Miss Annie Kidd, that we may prove that Miss Loving made a mistake in the statement as to what happened at the beginning of the drive."

The defense objected, and Mr. Strode spoke on the objection. He contended that the question at issue is what was our case here."

(Continued on Fourth Page.)

THE WEATHER

Forecast: Virginia—Fair Thursday and Friday; light rain Saturday.

North Carolina—Occasional thunder showers Thursday and Friday; light, variable winds, mostly north.

CONDITIONS YESTERDAY.

Richmond's weather was clear and hot. Range of the thermometer: 12 A. M. 85 5 P. M. 88 10 A. M. 88 9 P. M. 85 3 P. M. 90 12 midnight 75 Average 84.2-3

Highest temperature yesterday, 90. Mean temperature yesterday, 81. Normal temperature yesterday, 78. Departure from normal temperature, 05.

CONDITIONS IN IMPORTANT CITIES. (At 8 P. M., Eastern Time.)

Place Weather

Asheville, N. C. 74 Rain

Augusta, Ga. 72 Cloudy

Baltimore, Md. 74 Rain

Atlanta, Ga. 68 Rain

Birmingham, Ala. 60 P. Cloudy

Buffalo, N. Y. 72 Cloudy

Chickasha, Okla. 70 Clear

Cincinnati, O. 72 Cloudy

Cleveland, O. 70 Clear

Detroit, Mich. 62 Clear

Hartford, Conn. 78 Rain

Houston, Tex. 74 Cloudy

Jacksonville, Fla. 74 Clear

Kansas City, Mo. 74 Rain

Memphis, Tenn. 78 Rain

New Orleans, La. 84 Rain

Oakland, Cal. 72 Rain

Pittsburg, Pa. 74 Rain

Raleigh, N. C. 78 Rain

San Francisco, Cal. 72 Cloudy

Norfolk, Va. 72 Rain

Tampa, Fla. 76 Rain

Vicksburg, Miss. 80 Rain

Washington, D. C. 80 Rain

Wilmington, N. C. 78 Rain

Yellowstone, Wyo. 68 Clear

MINIATURE ALMANAC.

Sun rises 4:52

Sun sets 7:52

Moon rises 9:38

Moon sets 5:40

Evening 6:11

June 27, 1907.

HIGH TIDE.

Morning 5:40

Evening 6:11

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